

REMARKS

Claims 2-4, 7-9, 11, 13-15, 18-20, and 23-44 remain in the application with claims 2-4, 7-9, 11, 15, 18, 19, and 23 having been amended hereby.

Reconsideration is respectfully requested of the rejection of the claims under 35 USC 102(e), as being anticipated by Shear et al.

As previously noted, Shear et al. discloses a platform that releases a content to a videocassette recorder in which the platform receives a digital ID that designates the output device as being a videocassette recorder. According to Shear et al. the platform can refuse to provide any output unless a digital ID identifying the output device as a lower quality analog device is provided. Absent such digital ID Shear et al. blocks the recording of the digital data.

As previously described, the present invention provides a system that controls the reproduction of digital audio data based upon sensing various parameters, such as the type of device connected to the interface or the speed of reproduction or the quantity of data to be reproduced.

In regard to claim 2, the instant Official Action suggests that Shear et al. discloses that receiving device can be different types or different classes of devices and different rules may be applied to receiving contents depending on the types or classes of the devices. It is suggested that Shear et al. implies that means to detect the capability of the system, such as a built-in memory to make a copy, would be

inherently required in order to prevent the device making the copies.

Nevertheless, in amended claim 2, it is now recited that the external apparatus identifying means determines whether the external apparatus is a data storage apparatus that has a storage memory means for storing data input through the interface. The control means prohibits the transmission of the output data to the external apparatus when the external apparatus identifying means determines that the external apparatus is the data storage apparatus having the storage memory means.

Thus, in the apparatus recited in amended claim 2, the apparatus determines whether the external apparatus includes a storage memory means and only when the apparatus includes a storage memory means is the transmission of data prohibited. For example, assuming that the external apparatus is a DVD writable apparatus utilized to copy digital data, it is permitted to transfer data to the apparatus in case a blank DVD, which is the storage memory means of the claims, is not loaded in the external apparatus. The apparatus in amended claim 2 is implied to operate such that it judges the state of the external apparatus, that is, whether the external apparatus is ready for copying or not, even if it is found that the external apparatus is a recordable device.

According to the invention of Shear et al. it is disclosed that controls may prevent the platform 60 from releasing content except to different types of output devices

that cannot be used to copy the content. This means that if the apparatus in Shear et al. is a recordable device, it is prohibited to release content even though the apparatus does not have a storage memory. As is well known in real life, a video recorder is commonly connected to a television receiver. According to Shear et al. when it is desired to connect another apparatus that has source data it always should be connected directly to the television receiver, because the video recorder would be regarded as a recordable apparatus and, thus, it is not allowed to be connected by the video recorder. This is an inconvenience, but there is no problem according to the present invention because the video recorder is not regarded for the use of recording when the storage memory means is not loaded in the video recorder.

In regard to amended claim 3, it is recited that allowing a start of the transmission of the output data to an external apparatus through the interface is decided in accordance with the version of the external apparatus. Thus, according to the version of the external apparatus an allowance of a start of transmission is controlled by the control means. It is respectfully submitted that Shear et al. is completely silent concerning this feature.

In regard to amended claim 4, it is recited that the external apparatus identifying means determines whether the external apparatus is a copyright-related apparatus that can control the reproduction of data based on copyright-related information contained in that data.

Thus, the control means controls allowing a start of the transmission of the output data to the external apparatus through the interface in accordance with a result of the determination in the external-apparatus identifying means. When the data has information relating to copyright and the external apparatus has a capability to control copyright-related data, transmission of output data to the external apparatus is allowed, because it is regarded that the copyright can be protected by the external device that has a function of controlling a copyright-related data. It is respectfully submitted that Shear et al. is completely silent about an external apparatus having the capability to control a copyright-related data.

Claims 7 and 8 have been further amended to clarify the meaning thereof. For example, claims 7 and 8 recite that based on an amount of output data that is to be transmitted to the external apparatus and the speed at which the output data has been reduced, allowing a start of the transmission of output data is controlled. It is respectfully submitted that Shear et al. is completely silent about the function of allowing a start of transmission of output data being controlled in accordance with an amount of output data or the speed of reproduction of the output data.

In regard to amended claim 9, it is recited that the allowance of a start of data transmission is controlled according to the type of medium that contains the data to be transmitted. For example, data of the CD format can be

allowed to be transmitted but data of the DVD format can not, because a recording medium of the latest format, for example, the DVD format is more recent compared to the CD format and has a high possibility to contain a large amount of information of higher quality compared to those of the older format. It is respectfully submitted that Shear et al. is completely silent concerning this feature. It will be noted that claim 9 has no relation to the type of equipment and/or classes of equipment.

In regard to claim 11, the instant Official Action states that Shear et al. discloses to enable a DVD drive... where they may charge for the use of a portion... Nevertheless, it is respectfully submitted that Shear et al. is silent concerning the feature of amended claim 11 in which the charging fee is decided in accordance with the kind of external apparatus that is connected to the interface.

Amended claim 23 now recites that a control means controls the allowance of a starting of transmission of the output data through the plurality of interfaces in accordance with the type of interface that has been determined. The instant Official Action suggests that Shear et al. teaches that the controller can prevent the platform from releasing the content except to certain types of output devices. Nevertheless, it is respectfully submitted that Shear et al. does not suggest determining the types of the interfaces. It is respectfully submitted that the same kind of devices may have different interfaces and, on the other hand, different

kinds of devices may all have the same interface. Thus, it is a different concept to determine the data transmission based on the type of interface than the concept of basing the data transmission on the output devices.

Reconsideration is respectfully requested of the rejection of claims 41-44 under 35 USC 103, as being unpatentable over Shear et al in view of Ottenson et al.

Shear et al. is applied as discussed hereinabove. Ottenson et al. is cited for disclosing communicating a billing signal to the information network in response to each presentation of a download source program.

Nevertheless, claim 41 recites that fee charging information is stored in a recording medium together with the data to be transmitted to an external apparatus and fee charging information is updated whenever the data transmission has occurred. Because the fee charging information is stored in the recording medium, there is no need for charging the data transmission fee apart for the recording medium. Thus, the recording medium itself can be used as a source of data to be transmitted in the form of electronic money. It is respectfully submitted that Ottenson et al. does not suggest this feature and, moreover, it is respectfully submitted that such features should not be regarded as being well-known.

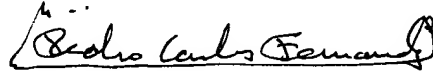
Accordingly, in view of the amendments made to the claims hereby, as well as the above remarks, it is respectfully submitted that a data transmitting apparatus and method, as taught by the present invention and as recited in the amended

claims, is neither shown nor suggested in the cited references, alone or in combination.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

COOPER & DUNHAM LLP

A handwritten signature in dark ink, appearing to read "Jay H. Maioli", written over a horizontal line.

Jay H. Maioli

Reg. No. 27, 213

Pedro C. Fernandez

Reg. No. 41,741

JHM:tb